

DUNCAN MILLER

IBLA 77-290

Decided July 25, 1977

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's lease offer NM-16733.

Affirmed.

1. Oil and Gas Leases: Discretion to Lease

The Secretary of the Interior may, in his discretion, reject an offer to lease public lands for oil and gas deposits upon a proper determination that the leasing would not be in the public interest, even though the land applied for is not withdrawn under the Mineral Leasing Act.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Appellant Duncan Miller, by an over-the-counter offer dated July 24, 1972, filed application NM 16733 for an oil and gas lease for certain lands in New Mexico. The New Mexico State Office, Bureau of Land Management (BLM), by decision dated March 2, 1977, rejected Miller's offer to lease, holding that:

Offer to lease NM 16733 is rejected in its entirety for the reason that all of the lands described in the offer are included in the Cabezon 1-04, Management Framework Plan dated June 19, 1972. These lands have been set aside as "Special Use Areas" and oil and gas leasing would disrupt the natural appearance of the landscape.

Miller states on appeal that he

believes this to be arbitrary and capricious; because of the energy shortage, disrupting the natural appearance of the landscape really does not have any validity. The area is located over 20 miles on a dirt road--which

is off a secondary road. Hence, the natural appearance of the landscape is really not going to be noticed by anyone -- even if it were important.

In Duncan Miller, 30 IBLA 350 (1977), we considered an appeal involving other lands in the Cabezón Management district which appellant Miller sought to lease for oil and gas exploration. The lands at issue in that appeal, like the lands at issue here, were designated as "Special Use Areas" and Miller there argued, as he does now, that the designation was inappropriate because those lands were "many miles off the road where hardly anyone would look at the natural appearance of the landscape." Miller, supra, p. 331. We find our decision in Miller to be controlling of the appeal before us and, indeed, we note that it involved the same appellant, the same management plan, and closely related lands. As we held in that former case:

The Bureau, in the case before us, has independently determined that certain lands within the Cabezón Planning Unit Special Use Area should not be utilized for any purpose which would disrupt the natural appearance of the landscape. These lands are described by Albuquerque District Management Framework Plan as having high recreational potential and as being well suited to the production of motion pictures. We find no flaw in this determination and, indeed, the remote character of the lands for which appellant applied may be exactly the characteristic which makes them well suited for the above-described special uses. The decision rejecting Miller's oil and gas lease offer is, therefore, within the discretion of the Secretary.

Miller, supra at 332.

It is a well-settled matter that the Secretary of the Interior may, in his discretion, reject any offer to lease public lands for oil and gas deposits upon a proper showing that the leasing would not be in the public interest, even though the land applied for is not withdrawn from leasing under the Mineral-Leasing Act. E.g., Cartridge Syndicate, 25 IBLA 57 (1976); T. R. Young, Jr., 20 IBLA 333 (1975). Since BLM has independently determined that certain lands in the Cabezón Planning Unit Special Use Area should not be used for purposes which would disrupt the natural character of the landscape, and since there appears to be no abuse of discretion in the attendant rejection of Miller's lease application, we find no flaw in the decision below.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Douglas B. Henriques  
Administrative Judge

We concur:

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Newton Frishberg  
Chief Administrative Judge

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Joan B. Thompson  
Administrative Judge

